

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA** : **CRIMINAL NO.** \_\_\_\_\_

**v.** : **DATE FILED:** \_\_\_\_\_

**MARTIN MIRAKIAN** : **VIOLATIONS:**

: **18 U.S.C. § 371 (conspiracy to defraud**

: **the Internal Revenue Service -**

: **1 count)**

: **26 U.S.C. § 7203 (failure to file tax returns -**

: **3 counts)**

: **Notice of additional factors**

**I N D I C T M E N T**

**COUNT ONE**

**THE GRAND JURY CHARGES THAT:**

1. At all times material to this indictment, defendant MARTIN MIRAKIAN maintained a residence in Philadelphia, Pennsylvania and conducted business, including sales of collectible trains and related merchandise, in the Eastern District of Pennsylvania and elsewhere.
2. At all times material to this indictment, Stephen Schwartz (charged elsewhere) maintained a residence in Philadelphia, Pennsylvania and conducted business, including sales of collectible trains and related merchandise, in the Eastern District of Pennsylvania and elsewhere.
3. Between in or about 1998 and in or about mid-February, 2001, Stephen Schwartz was employed at S & H Hardware and Supply Company ("S & H"). S & H was, and is, engaged in the wholesale and retail business of supplying hardware, plumbing supplies and other merchandise, and maintained a place of business at 6700 Castor Avenue, Philadelphia,

Pennsylvania. Schwartz was responsible for ordering and selling merchandise, including collectible trains and related products.

4. At all times material to this indictment, defendant MARTIN MIRAKIAN and Stephen Schwartz represented themselves as partners engaged in the business of selling collectible trains and related products.

5. From in and about 1999, to in and about 2001, in the Eastern District of Pennsylvania, and elsewhere, defendant

#### **MARTIN MIRAKIAN**

and Stephen Schwartz conspired and agreed, together and with others known and unknown to the grand jury, to defraud the United States by impeding, impairing, obstructing, and defeating the lawful functions of the Internal Revenue Service of the Department of Treasury in the ascertainment, computation, assessment and collection of income taxes.

#### **MANNER AND MEANS**

6. It was a part of the conspiracy that defendant MARTIN MIRAKIAN and Stephen Schwartz sold more than \$1.5 million worth of collectible trains and related merchandise at locations including train shows, hobby shows, and from a storage facility located in Philadelphia, Pennsylvania and failed to pay federal taxes on the income they received.

It was further a part of the conspiracy that:

7. Defendant MARTIN MIRAKIAN and Stephen Schwartz requested some customers to pay in cash for the collectible trains and related merchandise.

8. Defendant MARTIN MIRAKIAN and Stephen Schwartz directed payments from some customers for collectible trains and related merchandise to be provided in the form of multiple checks written out to different payees.

9. Defendant MARTIN MIRAKIAN and Stephen Schwartz directed payments from some customers for collectible trains and related merchandise to be split and paid by cash and check.

10. Defendant MARTIN MIRAKIAN and Stephen Schwartz directed checks received from some customers in payment for collectible trains and related merchandise to be written out as payable to other individuals and businesses.

11. Defendant MARTIN MIRAKIAN negotiated checks payable to Stephen Schwartz and other individuals.

12. Defendant MARTIN MIRAKIAN and Stephen Schwartz cashed checks received in payment for collectible trains and related merchandise at check cashing agencies.

13. Defendant MARTIN MIRAKIAN and Stephen Schwartz, to avoid currency reporting requirements, asked for and received multiple individual checks in amounts under \$10,000, negotiated the checks on the same date and received in excess of \$10,000 in cash.

14. Defendant MARTIN MIRAKIAN and Stephen Schwartz paid individuals who assisted them in selling collectible trains and related merchandise at train shows and other locations in selling collectible trains in cash.

15. Defendant MARTIN MIRAKIAN and Stephen Schwartz failed to provide to customers and maintain sales receipts relating to sales of collectible trains and related merchandise that was sold to customers.

16. Defendant MARTIN MIRAKIAN and Stephen Schwartz failed to maintain books and records relating to the collectible trains and related merchandise that was sold and payments received from sales of, and prepayments for, merchandise.

17. Defendant MARTIN MIRAKIAN and Stephen Schwartz failed to report to the Internal Revenue Service earnings and payments made to themselves and others who worked and provided services in connection with sales of collectible trains and related merchandise.

### **OVERT ACTS**

In furtherance of the conspiracy, defendant MARTIN MIRAKIAN, and others known and unknown to the grand jury, committed the following overt acts in the Eastern District of Pennsylvania and elsewhere:

1. On or about March 24, 1999, defendant MARTIN MIRAKIAN directed a customer whose identity is known to the grand jury to cash a check in the amount of approximately \$8,000 to make a cash payment for train merchandise to defendant MARTIN MIRAKIAN and Stephen Schwartz.

2. On or about May 19, 1999, defendant MARTIN MIRAKIAN deposited two checks in the total amount of approximately \$10,661 payable to Steve Schwartz into his credit union account.

3. On or about May 28, 1999, Stephen Schwartz directed a customer whose identity is known to the grand jury to split a payment in the amount of approximately \$22,691 for train merchandise by paying in cash and checks.

4. On or about May 28, 1999, defendant MARTIN MIRAKIAN directed a customer whose identity is known to the grand jury to cash a check in the amount of \$8,000 to generate cash for the payment of train merchandise.

5. On or about May 28, 1999, defendant MARTIN MIRAKIAN deposited a check dated May 29, 1999, in the amount of approximately \$9,000 payable to Stephen Schwartz and received in payment for train merchandise into his credit union account.

6. On or about May 28, 1999, defendant MARTIN MIRAKIAN withdrew cash in the amount of approximately \$9,000 from his credit union account.

7. On or about June 11, 1999, defendant MARTIN MIRAKIAN directed a customer whose identity is known to the grand jury to cash a check in the amount of approximately \$7,000 to generate cash for the payment of train merchandise.

8. On or about June 16, 1999, defendant MARTIN MIRAKIAN obtained a check cashing courtesy card at a check cashing agency located in Philadelphia, Pennsylvania.

9. On or about August 6, 1999, defendant MARTIN MIRAKIAN directed a customer whose identity is known to the grand jury to cash a check in the amount of approximately \$12,000 to generate cash for the payment of train merchandise.

10. On or about August 13, 1999, defendant MARTIN MIRAKIAN directed a customer whose identity is known to the grand jury to cash a check in the amount of approximately \$6,000 to generate cash for the payment of train merchandise.

11. On or about September 10, 1999, defendant MARTIN MIRAKIAN directed a customer whose identity is known to the grand jury to cash a check in the amount of approximately \$6,000 to generate cash for the payment of train merchandise.

12. On or October 26, 1999, defendant MARTIN MIRAKIAN directed a customer whose identity is known to the grand jury to cash a check in the amount of approximately \$5,000 to generate cash for the payment of train merchandise.

13. On or about October 29, 1999, defendant MARTIN MIRAKIAN directed a customer whose identity is known to the grand jury to cash a check in the amount of approximately \$5,000 to generate cash for the payment of train merchandise.

14. On or about November 12, 1999, Stephen Schwartz directed a customer whose identity is known to the grand jury to split a payment in the amount of approximately \$10,741 by paying in multiple checks.

15. On or about November 18, 1999, defendant MARTIN MIRAKIAN directed a customer whose identity is known to the grand jury to cash a check in the amount of approximately \$9,000 to generate cash for the payment of train merchandise.

16. On or about November 26, 1999, defendant MARTIN MIRAKIAN directed a customer whose identity is known to the grand jury to cash a check in the amount of approximately \$9,500 to generate cash for the payment of train merchandise.

17. On or about December 3, 1999, defendant MARTIN MIRAKIAN directed a customer whose identity is known to the grand jury to cash a check in the amount of approximately \$9,500 to generate cash for the payment of train merchandise.

18. On or about December 23, 1999, defendant MARTIN MIRAKIAN directed a customer whose identity is known to the grand jury to cash a check in the amount of approximately \$9,500 to generate cash for the payment of train merchandise.

19. On or about December 30, 1999, defendant MARTIN MIRAKIAN directed a customer whose identity is known to the grand jury to cash a check in the amount of approximately \$9,500 to generate cash for the payment of train merchandise.

20. On or about February 29, 2000, Stephen Schwartz directed a customer whose identity is known to the grand jury to split a payment in the amount of approximately \$14,217 by paying in multiple checks.

21. On or about February 29, 2000, defendant MARTIN MIRAKIAN cashed a check in payment for train merchandise in the amount of \$5,000 and payable to defendant MARTIN MIRAKIAN at a check cashing agency the identity of which is known to the grand jury.

22. On or about March 10, 2000, Stephen Schwartz directed a customer whose identity is known to the grand jury to split a payment in the amount of approximately \$12,000 by paying in multiple checks.

23. On or about March 10, 2000, defendant MARTIN MIRAKIAN cashed a check in payment for train merchandise in the amount of \$3,000 and payable to defendant MARTIN MIRAKIAN at a check cashing agency the identity of which is known to the grand jury.

24. On or about April 3, 2000, Stephen Schwartz directed a customer whose identity is known to the grand jury to split a payment in the amount of approximately \$15,436 by paying in multiple checks.

25. On or about April 13, 2000, Stephen Schwartz directed a customer whose identity is known to the grand jury to split a payment in the amount of approximately \$15,209 by paying in multiple checks.

26. On or about April 13, 2000, defendant MARTIN MIRAKIAN cashed a check in payment for train merchandise in the amount of \$4,000 and payable to defendant MARTIN MIRAKIAN at a check cashing agency the identity of which is known to the grand jury.

27. On or about May 26, 2000, Stephen Schwartz directed a customer whose identity is known to the grand jury to split a payment in the amount of approximately \$22,316 by paying in multiple checks.

28. On or about July 6, 2000, Stephen Schwartz directed a customer whose identity is known to the grand jury to split a payment in the amount of approximately \$15,214 by paying in multiple checks.

29. On or about December 29, 2000, Stephen Schwartz directed a customer whose identity is known to the grand jury to split a payment in the amount of approximately \$12,045 by paying in multiple checks.

30. On or about January 3, 2001, Stephen Schwartz directed a customer whose identity is known to the grand jury to split a payment in the amount of approximately \$12,155 by paying in multiple checks.

31. On or about January 10, 2001, Stephen Schwartz directed a customer whose identity is known to the grand jury to split a payment in the amount of approximately \$13,920 by paying in multiple checks.



32. On or about February 1, 2001, Stephen Schwartz directed a customer whose identity is known to the grand jury to split a payment in the amount of approximately \$23,425 by paying in multiple checks.

33. On or about February 2, 2001, defendant MARTIN MIRAKIAN directed a check in the amount of approximately \$2,783.00 to be made payable to Stephanie Mirakian in payment for train-related merchandise.

All in violation of Title 18, United States Code, Section 371.

## **COUNTS TWO THROUGH FOUR**

### **THE GRAND JURY FURTHER CHARGES THAT:**

1. Between on or about January 1, 1999, and on or about December 31, 2001, defendant MARTIN MIRAKIAN received gross income in an amount in excess of approximately \$230,000 from sales of collectible trains and related merchandise, from self-employment and wages.
2. During all times material to this indictment, defendant MARTIN MIRAKIAN was married, resided with his spouse and both he and his spouse were under the age of 65.
3. Defendant MARTIN MIRAKIAN filed extensions with the Internal Revenue Service for the years 1999 and 2000 and submitted payments for these years in the amounts of \$2,000 and \$1,000, respectively.
4. During the calendar years set forth below, at Philadelphia, in the Eastern District of Pennsylvania, defendant

### **MARTIN MIRAKIAN,**

a resident of Philadelphia, Pennsylvania, had and received gross income substantially in excess of the minimum filing requirement, as set forth below, and that by reason of such gross income, he was required by law, following the close of each calendar year and on or before the date stated below, to make an income tax return to the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, or other proper officer of the United States, stating specifically the items of his gross income and any deductions and credits to which he was entitled; that knowing this, he willfully failed to make an income tax return to the Director of the Internal Revenue Service Center, or to any other proper officer of the United States:

<u>COUNT</u>	<u>YEAR</u>	<u>GROSS INCOME</u> <u>FILING REQUIREMENT</u>	<u>DATE RETURN DUE</u>
2	1999	\$12,700.00	August 15, 2000
3	2000	\$12,950.00	August 15, 2001
4	2001	\$13,400.00	April 15, 2002

All in violation of Title 26, United States Code, Section 7203.

**NOTICE OF ADDITIONAL FACTORS**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. In committing the offense charged in Count One, the defendant MARTIN MIRAKIAN committed an offense for which the total tax loss exceeded \$300,000, as described by U.S.S.G. §§ 2T1.1(c)(2), 2T1.9 and 2T4.1.

2. In committing the offenses charged in Counts Two through Four, inclusive, the defendant MARTIN MIRAKIAN committed offenses in which the total tax loss exceeded \$40,000 as described by U.S.S.G. §§ 2T1.1(c)(2) and 2T4.1.

**A TRUE BILL:**

**\_\_\_\_\_  
GRAND JURY FOREPERSON**

**\_\_\_\_\_  
PATRICK L. MEEHAN  
UNITED STATES ATTORNEY\_\_\_\_\_**